IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX REFERENCE NO.502 OF 1998

The Commissioner of Income-tax ..Applicant.

V/s.

Homi Mehta & Sons Pvt.Ltd. ..Respondent.

Mr.A.S.Rao for applicant.

CORAM : V.C. DAGA AND J.P.DEVADHAR, JJ.

DATED : 21ST MARCH, 2005.

P.C. :-

1. Heard the learned counsel for the appalicant. The Tribunal has referred the question for the opinion of this Court reading as under :-

> " Whether, on the facts and in the circumstances of the case, the Tribunal was right in law in holding that in computing the disallowance out of salary and perquisites paid to the employee-directors provisions of section 40(c) and not those of Section 40A(5) will apply ?"

2. The above question has already been answered by the Division Bench of this Court in the case of **C.I.T. V/s. Hico Products Pvt.Ltd. (No.1) [(1993) 201 I.T.R. 567 (Bom.)** in favour of the assessee and against the revenue. In this view of the matter, question stands answered in affirmative for the reasons stated in the case of Hico Products (P) Ltd. Reference, accordingly stands disposed of with no order as to costs.

(V.C. DAGA, J.)

(J.P.DEVADHAR, J.)